

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
-vs-	:	
Resource Technology Corporation	:	
Citation to show cause for continued	:	02-0461
QSWEF Certification of Pontiac	:	
facility and to investigate compliance	:	
with the final order in Dockets 97-	:	
0031 through 97-0045 Consolidated	:	

ORDER

By the Commission:

In an Order entered on October 8, 1997 in Dockets 97-0031 through 97-0045 consolidated ("Final Order"), the Illinois Commerce Commission ("Commission") determined that a facility located at 14732 East 2100 North Road, Pontiac, Illinois ("Pontiac facility") and operated by Resource Technology Corporation ("RTC") was a qualified solid waste energy facility ("QSWEF"). This facility was the subject of a petition for determination of QSWEF status in Docket 97-0034. Section 8-403.1(b) of the Public Utilities Act ("Act") defines a qualified solid waste energy facility in the following manner:

For the purpose of this Section and Section 9-215.1, "qualified solid waste energy facility" means a facility determined by the Illinois Commerce Commission to qualify as such under the Local Solid Waste Disposal Act, to use methane gas generated from landfills as its primary fuel...

The Final Order making the determination that the Pontiac facility was a QSWEF stated that the facility would have a generating capacity of 10 MW.

The Final Order states that "It is clear that the Section 8-403.1 criteria must be met and maintained throughout the terms of the contract." (Page 8) In a Staff Report dated July 9, 2002, the Staff of the Commission's Energy Division alleges that the Pontiac facility no longer meets the requirements for determination that it is a QSWEF. These allegations are based on the belief that the facility is no longer using methane gas generated from landfills as its primary fuel. The Staff Report details the significant additions to generating capacity at the Pontiac facility and also the significant increase

in electricity sales to Commonwealth Edison Company ("Edison"). As noted in the Staff Report, the additional generating capacity and the possible significant use of natural gas, rather than landfill-generated methane gas, to generate power could constitute a variance from the requirements of Section 8-403.1.

In addition, the Final Order requires RTC to file bi-annual reports regarding its energy producing facilities and annual reports regarding reimbursements providing information specified in the prefatory portion of the Final Order. See Finding 7 of the Final Order. The Staff Report indicates that RTC has not filed any of the required reports.

Section 10-101 of the Act provides in relevant part:

The Commission, or any commissioner or hearing examiner designated by the Commission, shall have power to hold investigations, inquiries and hearings concerning any matters covered by the provisions of this Act....

The Staff of the Energy Division has made a persuasive case in favor of investigating whether the Pontiac facility continues to meet the statutory requirements for a QSWEF. The Commission is inclined to exercise its authority under Section 10-101 of the Act to conduct such an investigation.

Section 10-108 of the Act also provides in relevant part:

Complaint may be made by the Commission, of its own motion ... setting forth any act or things done or omitted to be done in violation, or claimed to be in violation, of any provision of this Act, or of any order or rule of the Commission.

RTC received the determination concerning the facilities that were the subject of the Final Order on October 8, 1997. The Final Order records that the first of the subject facilities was to begin commercial operation during the 3rd quarter of 1997. This would trigger the filing of the reports required by the Final Order, so that reports are delinquent for calendar years 1998 through and including 2001. The failure of RTC to file the reports required by the Final Order as alleged in the Staff Report would constitute an omission that would be a violation of an order.

The Commission, being fully informed in the premises, is of the opinion and finds that:

- (1) Resource Technology Corporation received a Commission determination that certain facilities were qualified solid waste energy facilities in Docket 97-0031 through 97-0045 consolidated, including the Pontiac facility (Docket 97-0034);

- (2) Resource Technology Corporation should be made a respondent in this matter;
- (3) the Commission has jurisdiction over the subject matter herein and the parties hereto;
- (4) the recitals of fact set forth in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact;
- (5) a proceeding should be initiated pursuant to Section 10-101 and Section 10-108 of the Public Utilities Act to determine whether the Pontiac facility owned and operated by respondent continues to meet the criteria of Section 8-403.1 of the Public Utilities Act mandated for a qualified solid waste energy facility and to determine whether Resource Technology Corporation has failed to file the bi-annual reports in 1998, 1999, 2000, and 2001 regarding its energy producing facilities and annual reports in 1998, 1999, 2000, and 2001 regarding reimbursements providing information specified in the prefatory portion of the Final Order as required by the Final Order;
- (6) the Staff Report dated July 9, 2002 should be made a part of the record of this proceeding;
- (7) the Commission should take administrative notice of the order entered in Dockets 97-0031 through 97-0045 consolidated on October 8, 1997.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that a proceeding be initiated under the authority of Section 10-101 and Section 10-108 of the Public Utilities Act to determine whether the Pontiac facility owned and operated by Resource Technology Corporation continues to meet the requirements for a qualified solid waste energy facility pursuant to Section 8-403.1 of the Public Utilities Act and to determine whether Resource Technology Corporation has failed to file the bi-annual reports regarding its energy producing facilities and annual reports regarding reimbursements in 1998, 1999, 2000, and 2001 as required by the Final Order.

IT IS FURTHER ORDERED that Resource Technology Corporation is made a respondent to this proceeding.

IT IS FURTHER ORDERED that the Staff Report dated July 9, 2002 is made part of the record of this proceeding.

IT IS FURTHER ORDERED that respondent appear before the Commission, at a time and date to be determined by the Administrative Law Judge assigned to this proceeding, to show cause, if any there be, why it should not have the determination that the Pontiac facility is a qualified solid waste energy facility revoked.

IT IS FURTHER ORDERED that respondent appear and offer evidence, if any there be, that it has complied with the report filing requirements delineated in Finding 7 of the Final Order in Dockets 97-0031 through 97-0045 consolidated.

IT IS FURTHER ORDERED that the failure of the respondent to appear may result in the entry of an order finding the allegations contained in the Staff Report dated July 9, 2002 to be proven by a preponderance of the evidence, revoking the determination that the Pontiac facility is a qualified solid waste energy facility, and imposing civil penalties of not less than \$500 nor more than \$2000 for each offense of noncompliance with the report filing requirements of the Final Order, pursuant to Section 5-202 of the Public Utilities Act.

IT IS FURTHER ORDERED that this order is not final and that it is not subject to the Administrative Review Law.

By order of the Commission this 10th day of July, 2002.

(SIGNED) Richard L. Mathias

Chairman